IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 2619 OF 2007

Vinod Gopal Warghade. ... Applicant.

V/s.

The State of Maharashtra. ... Respondent.

M.S.Mohite for the applicant.

K.V.Saste, APP for the State.

CORAM: V.C.DAGA, J.

DATED: 7th September 2007.

P.C.:

. Heard learned counsel for the applicant and learned A.P.P. for the State.

2. By this application, the applicant is seeking bail in connection with C.R.No.I-10/2007 registered with Tokawade Police Station, district- Thane for the offences punishable under sections 143, 147, 148, 302, 326 read with sections 149, 114, 504 and 506 of Indian Penal Code. The said offence is registered on 30th March, 2007 at about 3.30 a.m. Applicant came to be arrested and is in custody since 9th July, 2007.

3. The case of the prosecution is that the complainant one Namdev Warghade and others had gone to

attend the marriage ceremony at village Umbrai, taluka- Shahapur and then, in the evening they were returning back to their village at Veluk, taluka- Murbad. On the same date, at about 9.30 p.m., the complainant along with his brother Dhananjay and cousin brother Raghunath and one Janardhan were proceeding to a telephone booth which is near to the house of Laxman Warghade, accused Hanumant, Janardhan, Kantilal and Nilesh rushed on their person and assaulted Dhananjay and Raghunath with knife and sticks and caused bleeding injuries on their person. Other co-accused had instigated others to kill. In the said incident Dhanajay died on the spot. Therefore, Namdev Warghade lodged the complaint in Tokawade Police Station and that is how the offence came to be registered.

4. The applicant is seeking bail contending that his name is not to be found in the F.I.R., whereas he has been implicated by Namdev and Raghunath in their statements showing his presence on the spot of incident. Learned counsel for the applicant submits that no overt act on the part of the present applicant is alleged. There is no recovery from him. He is in jail since 9th July, 2007. Chargesheet has been filed. Investigation, so far as present applicant is concerned, is complete. He, thus, submits that this is a fit case for grant of bail.

5. The learned A.P.P., appearing for the State, though tried to opposed this application, however, he could not show any other material other than two statements referred to hereinabove; wherein no specific role is assigned to the present applicant.

6. In the above view of the matter, I am inclined to grant bail in favour of the applicant, subject to the following conditions:

(a) The applicant, arrested in connection with CR.No.I-10/2007 registered with Tokawade Police Station, district- Thane shall be enlarged on bail in the sum of Rs.25,000/- with one or two sureties to make up the said amount.

(b) The applicant shall report to the concerned Police Station once in a week, i.e. on every Friday between 3.00 to 5.00 p.m. till conclusion of the trial.

(c) The order of bail will be given effect only after the applicant furnishes to the investigating officer the details about his

place of residence and address where he proposes to stay after he is enlarged on bail. The applicant will not change his residential address thereafter till the conclusion of trial without prior intimation to the investigating officer.

(d) The applicant shall not directly or indirectly, make any inducement or threat or pressurise any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

(e) The applicant shall co-operate with the investigating agency for disposal of the case. It is needless to mention that breach of any of the conditions by the applicant shall result in cancellation of bail.

(f) Any observation made in this order shall not be construed as finding or expression on merits of the case at the time of trial.

7. Application stands disposed of accordingly.

. **JUDGE**